

**OPINION SUMMARY  
MISSOURI COURT OF APPEALS EASTERN DISTRICT  
DIVISION TWO**

|                    |   |                               |
|--------------------|---|-------------------------------|
| CARLOS A. SUBER,   | ) | No. ED104555                  |
|                    | ) |                               |
| Appellant,         | ) |                               |
|                    | ) | Appeal from the Circuit Court |
|                    | ) | of St. Louis County           |
| vs.                | ) | Cause No. 15SL-CC02426        |
|                    | ) |                               |
| STATE OF MISSOURI, | ) | Honorable Michael T. Jamison  |
|                    | ) |                               |
| Respondent.        | ) | Filed: March 21, 2017         |

Carlos A. Suber (“Movant”) appeals the motion court’s denial of his Rule 24.035 motion for post-conviction relief and request for an evidentiary hearing arguing the motion court was without jurisdiction to revoke his probation under § 559.036.8. The motion court found that it had the authority to revoke Movant’s probation because it had manifested an intent to do so during the term of Movant’s probation, put Movant on notice of this intent, and made every reasonable effort to conduct the revocation hearing prior to the end of his probation. The court found that Movant had not shown he was entitled to relief and denied his request for an evidentiary hearing.

Holding: AFFIRMED.

Division Two Holds: The motion court retained authority to revoke Movant’s probation under § 599.036.8 because it affirmatively manifested its intent to conduct the Movant’s revocation hearing prior to the expiration of the probation term, and notified Movant of this intent, by scheduling a revocation hearing following Movant’s arrest on a probation officer’s warrant. Additionally, the motion court made every reasonable effort to conduct the revocation hearing during the probation term, and would have conducted the hearing but for Movant’s requests for and/or consent to numerous continuances.

Opinion by: Colleen Dolan, J.

Sherri B. Sullivan, P.J., and Roy L. Richter, J., concur.

Attorney for Appellants: Gwenda Reneé Robinson

Attorney for Respondent: Gregory L. Barnes

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| <b>THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS<br/>BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT<br/>BE QUOTED OR CITED.</b> |
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